IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7821 OF 2007

1. Siemens Ltd.
Thane Belapur Road, Kalwe,
Thane (W) - 400 601 & 2 ors. ..Petitioners

Vs.

Siemens Workers' Union
Gautam Arcade, Thane (E) - 400 603. ..Respondent

Mr. Sudhir Talsania, Senior Advocate with Mr. P.N. Anaokar for petitioners.
Mr. C.U. Singh, Senior Advocate with Mr. S.S. Chaubal for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : November 21, 2007.

P.C.:

1. Heard Mr. Talsania, the learned Senior Counsel with Mr. Anaokar for the petitioners and Mr. Singh the learned Senior Counsel with Mr. Chaubal for respondent - Union.

2. Though this petition is titled as filed under Article 226 and 227 of the Constitution, I am treating the same as filed under Article 227 of the Constitution as it challenges an interlocutory order

passed by the Industrial Court at Thane in an application filed under Section 30(2) of the M.R.T.U. & P.U.L.P. Act, 1971 (the Act for short) in Complaint (ULP) No. 129 of 2007.

3. There is no dispute that the respondent - Union has been operating in the petitioner no.1 - establishment for the last more than 40 years and from time to time settlements have been signed between the parties (either bipartite or tripartite) regarding revision of wages and all related issues covering the interest of the Management as well as workmen. The respondent is also a recognized Union.

4. It appears on 3/5/2007 a Vacancy Notification was issued by the petitioner no.1 inviting applications from the workmen for being selected as Trainee Officers in the Junior Executive category in the areas like Manufacturing, Quality, Inspection & Testing, Logistic, Technical and Sales Order execution etc. It has been further stated in the notification that after successful completion of two years training period, the officer trainee would be absorbed as

Junior Executive. The age required was (a) for Diploma Engineers 22 to 30 years and (b) for SSC/NCTVT/ITI/PWD (Supervisory) above 40 years. The scheme did not specify the details of the nature of job that would be assigned to the Officer Trainee during the period of two years of training and subsequently to the Junior Executive, the number of vacancies in the post of Junior Executive were also not specified.

5. The reaction of the Union to this notification was on the expected lines and it challenged the action of the management by filing Complaint (ULP) No. 129 of 2007 under Items 9 and 10 of Schedule IV of the Act. In short, it is the case of the Union that by the proposed scheme, the management intends to assign the jobs being performed by the workman to the so called executives, the intended scheme is in breach of the terms of the settlement which is called as more particularly Rationalisation Scheme and unless the Management specifically clarified as to the nature of duties to be performed by the Junior Executive on completion of two years training and the number of

such vacancies being made available, the move of the Management lacks bona fides and prima facie, therefore, there was a case of unfair labour practice.

6. By the impugned order below Exhs. U-2 and U-9 the following directions have been issued against the petitioner - Management:-

> (a) The respondents are hereby temporarily restrained till disposal of the complaint from giving work of workmen working in Switch Board Unit to any employee working in management/staff cadre.
>
> (b) The respondents are temporarily restrained till disposal of the complaint from reducing the present strength of employees in Switch Board Unit without following due process of law.
>
> (c) The respondents are directed not to bring any change in contravention of the provisions of settlement till disposal of the main

complaint.

7. The Rationalisation Settlement which appears to have been signed on 5/11/1982 has several clauses which do indicate a give and take between two parties and Clause No.7 states that employees of officer or staff categories shall not be asked to do normal production work. It was contended by Mr. Talsania the learned Senior Counsel that when the Management announced this scheme for the career development of the workman, the Union representing them could have no objection especially when none of the applicants raised any grievance nor was there any element of force on the part of the Management when the applications in response to the said scheme were received. He also submitted that pending the complaint of unfair labour practice, the Management could not be restrained from proceeding with the training programme. Having regards to the directions given in the impugned order and as quoted hereinabove, these submissions do not find force. The Management has not been estopped from going ahead with the

training programme which is contemplated to be of two years duration. But at the same time, having regards to the conditions of the Rationalisation Settlement, the Management has been estopped temporarily from assigning the work of workmen working in Switch Board Unit to any employee working in Management / Staff cadre. In my considered opinion the directions issued in the impugned order do not come in the way of the scheme circulated on 3/5/2007 or the supplementary scheme being operated and in any case the impugned order does not suffer from errors apparent on the face of the record. I am also satisfied that having regards to the nature of disputes between the parties and their long standing relationship, the complaint deserves to be decided expeditiously.

8. Hence, there is no case made out to cause interference with the impugned order under Article 227 of the Constitution and consequently the petition fails at the threshold and the same is hereby rejected summarily. The trial of Complaint (ULP) No. 129 of 2007 is hereby expedited and it be completed preferably within a period of one year from the

receipt of writ by the trial court.

(B.H. Marlapalle,J.)